

PATENT
Attorney Docket No. 04676.0186-00000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Chikamasa YAMASHITA et al.) Group Art Unit: 1616
Application No.: 10/538,781) Examiner: James Henry Alstrum
Filed: June 10, 2005) Acevedo
For: FREEZE-DRIED INTERFERON- γ -)
COMPOSITION FOR) Confirmation No.: 9421
TRANSPULMONARY ADMINISTRATION)
AND INHALATION SYSTEM THEREFOR)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

SUPPLEMENTAL REPLY

Supplemental to the reply filed April 21, 2009, applicants herewith file a Declaration Under 37 C.F.R. § 1.132 by the inventors pursuant to the suggestion made by the Examiner to overcome the rejection under 35 U.S.C. § 102(e) over Yamashita et al. (U.S. 2003/0101995) (now U.S. Patent No. 7,448,379).

As noted in MPEP 2136.05, an apparent § 102(e) published application or patent can be avoided as prior art if it can be shown that such application or patent merely describes the work of the inventive entity named in the application being examined. To this end, applicants submit the attached Rule 132 declaration signed by the inventors of this application stating that the disclosure (i.e., in the published application and patent) of the invention claimed in this application is their own work and that the other inventors (i.e., Fukunaga and Akagi) named in the publication and patent did not contribute to the

conception of the claimed subject matter in this application. Accordingly, the § 102(e) rejection of claims 1-14 based on Yamashita et al. ('379 patent) should be withdrawn.

Prompt and favorable reconsideration is requested.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 23, 2009

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Attachments: § 1.132 Declaration of the Inventors